

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

| | | |
|------------------------------------|---|----------------------|
| ROGER G. VANBLARCOM, |) | |
| |) | |
| Plaintiff, |) | |
| v. |) | No. 3:09-0528 |
| |) | JUDGE ECHOLS |
| WALTER G. (GREGG) THOMASON, |) | |
| |) | |
| Defendant. |) | |

ORDER

The Magistrate Judge entered a Report and Recommendation (“R&R”) (Docket Entry No. 12) on February 23, 2010, recommending that this action be dismissed without prejudice due to Plaintiff Roger G. VanBlarcom’s failure to effectuate service of process on the Defendant, Walter G. Thomason. The Magistrate Judge stated in the R&R that an Order to Show Cause why the action should not be dismissed was entered on January 4, 2010, but the envelope addressed to Plaintiff that contained a copy of the Order to Show Cause was returned to the Clerk’s Office marked “return to sender - unclaimed - unable to forward.” (Docket Entry No. 11.)

The docket indicates that copies of the R&R were also mailed to Plaintiff by regular and certified mail at his last known address. An individual named Tommy Young signed the certified mail receipt that was returned to the Clerk’s Office by the United States Postal Service. (Docket Entry No. 14.) The Court does not know whether Plaintiff actually received the mail sent to him. Plaintiff has not filed any objections to the R&R within the fourteen-day period for the filing of objections.

In reviewing an R&R where no objections are filed, the Court may accept, reject, or modify the recommended disposition, receive further evidence, or return the matter to the Magistrate Judge with instructions. Fed.R.Civ.P. 72(b)(3).

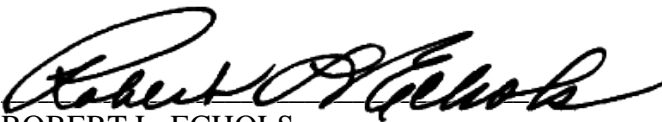
The Court finds no error of fact or law in the recommendation made by the Magistrate Judge to dismiss this case without prejudice for lack of service. In addition to the failure to effectuate service, Plaintiff also failed to keep this Court apprised of his current address so that the Court could effectively communicate with the Plaintiff. Accordingly,

(1) the R&R of the Magistrate Judge (Docket Entry No. 12) is hereby ACCEPTED;

(2) this case is hereby DISMISSED WITHOUT PREJUDICE for Plaintiff's failure to serve the Defendant within the time permitted by Federal Rule of Civil Procedure 4(m) and for failure to prosecute; and

(3) entry of this Order on the docket shall constitute entry of final judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is so ORDERED.


ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE